



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,944	10/24/2005	Jean-Pierre Joliet	4444-051	4767

22429 7590 08/09/2007
LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
----------	--------------

1724

MAIL DATE	DELIVERY MODE
-----------	---------------

08/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,944	Applicant(s) JOLIET, JEAN-PIERRE	
	Examiner Christopher Upton	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 19-30, 32 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 is/are allowed.
- 6) ☒ Claim(s) 17, 19, 20, 22-30, 32 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. Claims 36 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 36 and 38 are unclear, as claim 33 appears to be a subcombination to just the structure to be carried on the vessel, however, the "adapted" and "arranged" language of the claims, and the recitation of the turbine requires a combination with the vessel and flow channel for the structure to be complete.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 20, 26-29, 32 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Petchul in view of Derzhavets or Rymal.

Claims 20, 22-24, 26-30, 32 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Petchul in view of Chastan-Bagnis.

Petchul discloses a waste retainer in the form of a holding tank in a water channel on a two-hulled vessel, with a bottom closure, and with a decreasing surface area as the depth of the tank increases (formed by the sloping surfaces of the plate 8 and the flow splitter 22), which appears to form a venturi effect (note the flow arrows in

figure 1), substantially as claimed. Petchul does not disclose a turbine in the flow channel.

It is known to use a turbine in the water flow channel of similar skimmers, as disclosed by Derzhavets, Rymal and Chastain Bagnis. It would therefore have been obvious for one skilled in the art to use such a turbine in the skimmer of Petchul, to provide vessel propulsion as well as to improve the flow through the channel. Note that Petchul discloses that the device may be self propelled as an alternative to being towed or moored in place (see column 1, lines 50-52), and this would require the addition of a propulsion system to what is shown in the drawings.

Claims 22-24 further recite a solid waste retaining grill in the water flow channel, while claim 30 recites a the addition of rolling elements. These are both known in the art of skimming, as exemplified by the Chastan-Bagnis patent, and would be an obvious addition to the skimmer of Petchul for one skilled in the art, to collect floating solids and to allow the skimmer to be moved on land.

4. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 35 in view of Winbladh.

Claims 17 and 19 differ from claim 35 in recitation of a heating or temperature control element. It is well known to use a heater on an oil skimming vessel, as exemplified by Winbladh. It would therefore have been obvious for one skilled in the art to add such heaters to the skimmer of Petchul, to keep the oil in a more liquid and therefore more easily flowable state.

5. Claim 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petchul as applied to claim 35 above, and further in view of Debellian.

Claims 22-25 differ from claim 35 in recitation of a solid waste retaining grill in the for of a pair of moveable grills secured to each other. Since such a system for removing solid waste in a skimmer is known, as exemplified by Debellian, it is submitted that it would have been obvious for one skilled in the art to add such a solid waste retention grill to the skimmer of Petchul, to enable the collection of solids and cleaning out of the device.

6. Claim 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 39 is allowed.

7. Applicant's arguments filed on July 16, 2007 have been fully considered but they are not persuasive.

Applicant argues that the limitation of the venture effect recited in claims 35 and 36 is not shown in the prior art applied. It is submitted that the Petchul reference appears to show such an effect, caused by a decreasing surface area of the tank as the depth increases, as recited in applicant's claims 37 and 38.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a loop and a horizontal stroke.

Christopher Upton
Primary Examiner
Art Unit 1724